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January 11, 2023

The Honorable Allison D. Burroughs
United States District Court
District of Massachusetts
One Courthouse Way
Boston, MA 02210

Re: *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College, et al., No. 1:14-cv-14176-ADB*

Dear Judge Burroughs,

I am general counsel of *The New Yorker* and I write to request unsealing of transcripts of the closed hearings on December 9, 2022 and on December 15, 2022 at 9 a.m. in the above-referenced case. At those hearings, this court heard from the parties on the issue of unsealing sidebar transcripts from the 2018 trial. Professor Jeannie Suk Gersen's accurate and full reporting for the magazine requires access to the complete record of proceedings in this court -- including the recent proceedings concerning public access to the trial transcripts -- absent an overwhelming need to maintain confidentiality.

After considering the parties' arguments about unsealing the 2018 trial sidebar transcripts, this court ordered the unsealing of most of them on December 19, 2022. As a result, redacted transcripts of the sidebars were filed on the docket on December 21, 2022. At the status conference on the matter on December 15, 2022, at 10 a.m., Professor Gersen requested unsealing the transcript of the December 9, 2022 closed hearing at which the court heard the parties' arguments on the sidebars, and the Reporters Committee for Freedom of the Press requested unsealing the transcript of the hearing held on December 15, 2022 at 9 a.m. At that time, the court indicated that the parties would "take a look at the transcripts, and we'll get back to you."

This court has ordered unsealing of most of the trial sidebar transcripts in response to Professor Gersen's initial letter. The same legal arguments presented by Ms. Gersen and the Reporter's Committee for Freedom of the Press, including the presumption of public access and transparency, which warranted the unsealing of the sidebars, apply equally to the hearings at which the parties presented arguments about the unsealing. The importance of public monitoring

of the judicial system and the commitment to transparency is no less strong when the court proceeding directly involves legal arguments about the public's right to access judicial proceedings and about how the court is to balance public access and privacy interests.

The New Yorker therefore respectfully requests that this court unseal the transcripts of the December 9th and December 15th hearings about unsealing trial sidebars, with redactions, if any are required, of portions that would expose the limited material that this court ordered would remain sealed. We further respectfully request that any decision of this court to maintain these hearings under seal be accompanied by findings of the precise nature of the information at issue and the specific interest justifying sealing.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Allyn R. Lierman".